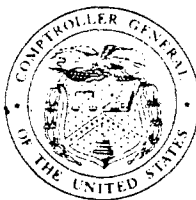


DECISION



13077 PL-11 Wickoff
THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548

FILE: B-197445

DATE: March 11, 1980

MATTER OF: E.A. Ellis Contractors, Inc. DLG 4078

DIGEST:

Protest is dismissed where protester files request for relief in court of competent jurisdiction involving same material issues as protest and court has not indicated any interest in GAO decision.

E.A. Ellis Contractors, Inc. (Ellis) has protested the General Services Administration's rejection of Ellis' bid under invitation for bids No. GS-05BC-82301 for failure to submit an adequate bid guarantee. Subsequent to filing its protest, Ellis also sought permanent injunctive relief in the United States District Court, Eastern District of Michigan, Southern Division, Civil No. 8070381, thereby placing the material issues involved in the protest before the court. AGC00017 DLG 4079

It is the policy of this Office not to decide protests where the material issues are before a court of competent jurisdiction unless the court requests, expects, or otherwise expresses an interest in our decision. 4 C.F.R. § 20.10 (1979); CSA Reporting Corporation, B-196545, December 21, 1979, 79-2 CPD 432. Usually, the court expresses such interest by granting the plaintiff's request for injunctive relief pending our decision, see, e.g., KET, Incorporated, 58 Comp. Gen. 38 (1978), 78-2 CPD 305, or by giving some other affirmative indication that the court is interested in our views. See, GTE Sylvania, Inc., 57 Comp. Gen. 715 (1977), 77-2 CPD 422; J. Baranello and Sons, 58 Comp. Gen. 509 (1979), 79-1 CPD 322. We have not been informed that the court has expressed interest in our views, nor has the protester indicated that it intends to seek such an expression from the court.

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[Protest Involving Failure To Submit
Adequate Bid Guarantee]

Under these circumstances, we will not consider the protest unless the court later requests our decision. 4 C.F.R § 20.10; CSA Reporting Corporation, supra; General Dynamics Corporation, Quincy Shipbuilding Division, Sunship, Inc., B-195939, B-195939.2, December 11, 1979, 79-2 CPD 403.

The protest is dismissed.

Harry R. Van Cleave
for Milton J. Socolar
General Counsel